



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2019-0218; FRL-9994-95-Region 1]

Air Plan Approval; Maine; Reasonably Available Control Technology for the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maine for purposes of implementing the 2008 Ozone National Ambient Air Quality Standards (NAAQS). The revisions consist of a demonstration that Maine meets the requirements of reasonably available control technology (RACT) for volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act), with respect to the 2008 Ozone standards. Additionally, we are proposing to approve a related regulation that limits air emissions of VOCs from certain industrial sources that use organic solvents in cleaning activities, and to withdraw several previously approved source-specific RACT requirements for sources that have ceased operation. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2019-2018 at <https://www.regulations.gov>, or via email to mackintosh.david@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of

submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, Air Quality Branch, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: David L. Mackintosh, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05-2), Boston, MA 02109-3912, tel. 617-918-1584, email Mackintosh.David@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background

Maine is part of the Ozone Transport Region (OTR) under Section 184(a) of the CAA. Sections 182(b)(2) and 184 of the CAA require states with Ozone nonattainment areas that are classified as moderate or above, as well as areas in the OTR, to submit a SIP revision requiring the implementation of reasonably available control technology (RACT) for sources covered by a control techniques guideline (CTG) and for all major sources. A CTG is a document issued by EPA which establishes a "presumptive norm" for RACT for a specific VOC source category. RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.¹ The CTGs usually identifies a particular control level which EPA recommends as being RACT. States are required to address RACT for the source categories covered by CTGs through adoption of rules as part of the SIP.

On October 5, 2006 (71 FR 58745), EPA issued four new CTGs, which applicable areas were required to address by October 5, 2007: Industrial Cleaning Solvents; Offset Lithographic

¹ See Memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, U.S. EPA, to Regional Administrators, U.S. EPA, "Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas" (Dec. 9, 1976); *see also* 44 FR 53761, 53762 (September 17, 1979).

Printing and Letterpress Printing; Flexible Package Printing; and Flat Wood Paneling Coatings. On October 9, 2007 (72 FR 57215), EPA issued three more CTGs, which applicable areas were required to address by October 9, 2008: Paper, Film, and Foil Coatings; Large Appliance Coatings; and Metal Furniture Coatings. On October 7, 2008 (73 FR 58841), EPA issued an additional four CTGs, which applicable areas were required to address by October 7, 2009: Miscellaneous Metal and Plastic Parts Coatings; Fiberglass Boat Manufacturing Materials; Miscellaneous Industrial Adhesives; and Automobile and Light-Duty Truck Assembly Coatings. Lastly, on Oct 27, 2016 (81 FR 74798), EPA issued a new CTG for the Oil and Natural Gas Industry, which applicable areas were required to address by October 27, 2018.

On March 27, 2008 (73 FR 16436), EPA revised the health-based NAAQS for Ozone to 0.075 parts per million (ppm), averaged over an 8-hour timeframe. EPA determined that the revised 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors and individuals with a pre-existing respiratory disease such as asthma.

On July 29, 2014 (79 FR 43945), EPA published a final rule approving a request from Maine for an exemption from the requirements for the control of nitrogen oxides (NO_x) emissions contained in section 182(f) of the CAA in relation to the 2008 8-hour Ozone NAAQS, providing an exemption from nonattainment new source review (NNSR) and RACT for major new sources of NO_x emissions in Maine.

On March 6, 2015 (80 FR 12264), EPA published a final rule outlining RACT requirements and requiring states in the OTR to certify RACT requirements by July 20, 2014. This rule, referred to as the “2008 Ozone implementation rule,” contains a description of EPA's expectations for states with RACT obligations. The 2008 Ozone implementation rule gives states several options for meeting RACT requirements for the 2008 Ozone standard. States may (1)

establish new or more stringent rules that meet RACT control levels for the 2008 standard; (2) certify, where appropriate, that previously adopted RACT rules approved by EPA under a prior Ozone standard represent adequate RACT control levels for the 2008 Ozone NAAQS; or (3) submit a negative declaration in instances where there are no sources in the state covered by a specific CTG source category. States may use these options alone or in combination to demonstrate compliance with RACT requirements.

On October 26, 2015 (80 FR 65291), EPA revised the health-based NAAQS for Ozone, setting it at 0.070 ppm averaged over an 8-hour time frame. On December 6, 2018 (83 FR 62998), EPA published a final rule that outlines the obligations for areas in nonattainment with the 2015 Ozone standard, as well as obligations for areas in the OTR. This rule, referred to as the “2015 Ozone implementation rule,” requires states in the OTR to certify RACT requirements by August 3, 2020.

On February 3, 2017 (82 FR 9158), EPA published a final rule finding that Maine, as well as 14 other states and the District of Columbia, had failed to submit SIP revisions in a timely manner to satisfy certain requirements for the 2008 Ozone NAAQS. With respect to Maine, EPA found that the state had failed to submit two required SIP elements: non-CTG VOC RACT for Major Sources and CTG VOC RACT. *Id.* at 9162. This finding became effective March 6, 2017, and started a SIP sanctions clock, which required the missing SIP elements to be submitted and deemed complete before September 6, 2018. *Id.* at 9160-61.

II. Summary of Maine’s SIP Revisions

On August 31, 2018, Maine submitted a SIP revision to address its outstanding RACT requirements for the 2008 Ozone NAAQS (i.e., a RACT Certification). The approval of Maine’s section 182(f) NO_x waver for the 2008 8-hour Ozone standard eliminated the need for Maine to address NO_x RACT in its 2018 Certification (79 FR 43945). Therefore, the RACT Certification

addresses non-CTG VOC RACT for Major Sources and CTG VOC RACT. The submittal is based on 1) certification that previously adopted RACT controls, which were approved by EPA for the 1997 8-hour Ozone NAAQS, are based on currently available technically and economically feasible controls and continue to represent RACT for implementation of the 2008 Ozone NAAQS; 2) adoption of more recent regulations that represent RACT controls; and 3) negative declarations that there are no sources in the state covered by specific CTG source categories (see section III below). Maine's submittal includes a request for EPA approval of 06-096 Code of Maine Rules (CMR) Chapter 166 "Industrial Cleaning Solvents" to address EPA's 2006 CTG for Industrial Cleaning Solvents. Maine's submittal also requests that EPA remove from the SIP several previously approved source-specific RACT requirements for facilities that no longer exist or, in one case, for a facility that no longer operates the process controlled by the source-specific requirements.

On September 4, 2018, EPA determined that Maine's SIP submittal was administratively and technically complete. This determination stopped the 18-month sanctions clock for Maine's two outstanding RACT SIP submittal elements. Because the sanctions clock stopped before September 6, 2018, sanctions did not become applicable in the state of Maine from the February 2017 finding of failure to submit (82 FR 9158).

On May 13, 2019, Maine modified its August 2018 SIP revision by letter in which it withdrew an item in the submitted SIP Revision. Specifically, on Table 3, "Previously-Approved RACT Determinations for Major Sources of VOC in Maine Now Permanently Closed or No Longer Subject to RACT," Maine withdrew (i.e., removed) the row entitled "United Technologies Corporation, Pratt and Whitney, North Berwick." As a result of this withdrawal, the United Technology, Pratt and Whitney, North Berwick source-specific requirements approved by EPA will remain in the Maine SIP.

Maine's August 2018 SIP submittal does not address RACT requirements for the 2015 Ozone standard, or the 2016 CTG for the Oil and Natural Gas Industry and, therefore, these are not addressed in today's notice.

III. EPA's Evaluation of the Submittal

A. CTG VOC RACT Regulations

In Maine's August 2018 SIP revision, Table 1 lists each of the state's VOC RACT regulations, the RACT basis for the regulation (e.g. CTG, ACT), the citation of EPA's approval of all but one of the regulations (i.e., 06-096 CMR Chapter 166 "Industrial Cleaning Solvents," which we propose to approve in today's action), and certifies that the state's current VOC RACT rules represent RACT under the 2008 Ozone NAAQS. On May 22, 2012 (77 FR 30216), EPA approved Maine's RACT Certification with respect to the 1997 Ozone NAAQS. In this 2012 approval, EPA also approved regulations that address four CTGs issued since the 1997 Ozone standard (i.e., Flat Wood Paneling Coatings; Paper, Film, and Foil Coatings; Offset Lithographic Printing and Letterpress Printing; and Metal Furniture Coatings). On November 5, 2014, (79 FR 65588), EPA approved Maine's regulations that address two CTGs: Miscellaneous Industrial Adhesives and Flexible Package Printing. On May 26, 2016 (81 FR 33394), EPA approved Maine regulations that address two more CTGs: Metal and Plastic Parts Coatings; and Fiberglass Boat Manufacturing Materials. This 2016 action also approved negative declarations for two CTGs: Large Appliance Coatings; and Automobile and Light-Duty Truck Assembly Coatings. In today's action, EPA is proposing to approve 06-096 CMR Chapter 166, which Maine included in its August 2018 SIP submission to address the Industrial Cleaning Solvent CTG. This is the last CTG that Maine is required to address for RACT Certification with respect to the 2008 Ozone NAAQS. EPA has evaluated Maine's CTG VOC regulations, which the state certifies as meeting RACT for the 2008 Ozone standard and finds that they are sufficiently

consistent with recommendations in the respective EPA CTGs and are based on currently available technologically and economically feasible controls. Therefore, EPA proposes that they continue to represent RACT in Maine for the 2008 Ozone standard.

Maine's August 2018 submittal also included negative declarations for the following CTG source categories: Auto and Light-Duty Truck Assembly Coatings; Equipment Leaks from Natural Gas/Gasoline Processing Plants; Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment; Large Petroleum Dry Cleaners; Leaks from Petroleum Refinery Equipment; Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins; Manufacture of Pneumatic Rubber Tires; Manufacture of Synthesized Pharmaceutical Products; Manufacturing of Vegetable Oil; Petroleum Liquid Storage in External Floating Roof Tanks; Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds; SOCMIAir Oxidation Processes; SOCMIDistillation and Reactor Processes; Surface Coating for Insulation of Magnet Wire; Surface Coating of Automobiles and Light-Duty Trucks; Surface Coating of Coils; Surface Coating of Large Appliances; and Wood Furniture Manufacturing. These negative declarations mean that Maine has no applicable stationary sources of VOC that are covered by these CTGs.

B. Chapter 166: Industrial Cleaning Solvents

Maine's new regulation 06-096 CMR Chapter 166, "Industrial Cleaning Solvents," expands the types of VOC emissions controlled for industrial cleaning solvents to address the 2006 Industrial Cleaning Solvents CTG. The regulation generally applies to an owner or operator of a source that uses industrial cleaning solvents in cleaning activities and, before controls, creates actual emissions of 3 tons or more of VOC from cleaning activities during any calendar year. As described in the regulation, exemptions can apply to cleaning activities regulated by another source category. The emission limits are achieved by (1) using solvents with a maximum VOC

content limit of 50 grams VOC per liter (0.42 lg/gal), (2) using cleaning solvents with a composite vapor pressure of 8.0 millimeters or less of mercury (mm Hg) at 20 degrees Celsius, or (3) using an emission control system with an overall control efficiency of at least 85 percent. Recordkeeping and general work practices are also required for applicable sources. These provisions are consistent with EPA's recommendations for such sources in the 2006 Industrial Cleaning Solvents CTG. Thus, EPA proposes to approve Chapter 166 into the Maine SIP. Adding this regulation to the SIP satisfies the anti-backsliding requirements of Section 110(l) of the CAA because the new regulation will achieve an equal or greater amount of VOC reductions as compared to existing EPA-approved Maine regulations applicable to cleaning activities.

C. Non-CTG VOC Major Sources

Section 184(b)(2) of the CAA requires RACT be applied to any major existing stationary source with the potential to emit 50 tons or greater per year of VOC. Maine's Chapter 134, "RACT for Facilities that Emit VOCs," rule generally applies to Maine sources with potential VOC emissions of 40 tons per year or greater that are not regulated by a specific regulation. In 2012 (77 FR 30216), EPA approved Chapter 134 as meeting RACT requirements for the 1997 Ozone NAAQS. EPA proposes that Chapter 134 continues to represent RACT for applicable major stationary sources of VOCs in Maine for the 2008 Ozone standard.

Maine's EPA-approved Chapter 134 establishes several RACT options, two of which set presumptive standards for VOC emissions reductions and a third that allows a source to submit a variety of strategies as an alternative compliance plan to reduce VOC emissions. Because the third option describes a process by which RACT can be defined but does not define RACT as required by the CAA, Maine must submit source-specific requirements to EPA for all applicable sources that do not conform to the presumptive RACT options outlined in the rule. EPA has approved many such source-specific RACT determinations into the SIP. *See* 40 CFR 52.1020(d).

A fourth option specifically addresses VOC RACT requirements for pulp and paper processes, requiring that emissions from the digester system, multiple effect evaporator systems, condensate stripper systems, smelt tanks, and lime kilns be controlled through incineration or wet scrubber systems in accordance with Maine's Chapter 124 "Total Reduced Sulfur Control from Kraft Pulp Mills."

Chapter 134 also includes provisions that exempt certain sources from additional control requirements, such as for equipment or processes that have met best available control technology (BACT), have met lowest achievable emission rate (LAER), or are subject to a separate RACT rule adopted by Maine and approved by EPA. Chapter 134 also exempts indirect contact wood kilns and wood yards (but not groundwood operations) from requirements for additional controls because it would not be technologically or economically practical to attempt to enclose these areas and capture VOCs and route them to a control device.

Table 2 of Maine's SIP revision lists the major VOC sources in Maine, along with their licensed (potential to emit) VOC emissions, and notes which sources are subject to applicable RACT requirements and which facilities have VOC-emitting equipment or processes that are exempt from the total VOC emission determination in Chapter 134. After reviewing existing stationary sources in Maine, the state determined that all major sources of VOC are currently meeting RACT requirements. EPA proposes that Chapter 134 and the previously-approved source-specific determinations continue to represent RACT for these VOC sources in Maine for the 2008 Ozone standard because no new control technologies are known to be reasonably available considering technological and economic feasibility for these sources since our last approval.

D. Withdrawal of Defunct Source-Specific Requirements

As explained above, Chapter 134 includes a process whereby a major VOC source in Maine may seek a source-specific RACT determination rather than be held to the specific emission limits or technology standards that are set forth in the rule. Because of the generic nature of this provision, RACT determinations established thereunder are submitted to EPA as revisions to Maine's SIP. Over the years, EPA has approved a number of such source-specific RACT determinations into the Maine SIP. Several of the sources that have received such RACT determinations are now either permanently closed or have ceased operations of the regulated activity. In its August 2018 submittal, Maine requested withdrawal of these previously SIP-approved source-specific requirements. Six facilities have permanently closed: (1) Prime Tanning Company, York County, Berwick, Maine; (2) JJ Nissen Baking Company, Cumberland County, Portland, Maine; (3) Georgia Pacific Corporation, Washington County, Baileyville (Woodland), Maine; (4) Moosehead Manufacturing Company, Piscataquis County, Dover-Foxcroft, Maine; (5) Moosehead Manufacturing Company, Piscataquis County, Monson, Maine; and (6) Dexter Shoe Company, Penobscot County, Dexter, Maine. A seventh facility—the McCain Foods USA, Inc., Tatermeal Facility in Presque Isle—surrendered its license to operate its dryers used to dehydrate primarily potato wastes to produce a material used as a binder and nutritional supplement in animal feed. EPA proposes to remove from the Maine SIP the source-specific RACT requirements associated with these sources because the sources are permanently closed or have ceased operations of the regulated activity and are, therefore, no longer sources of emissions subject to non-CTG VOC RACT. Withdrawing these requirements from the Maine SIP satisfies the anti-backsliding requirements in Section 110(l) of the CAA because the sources controlled no longer emit VOCs.

IV. Proposed Action

EPA is proposing to approve 06-096 CMR Chapter 166, “Industrial Cleaning Solvents,” into the Maine SIP at 40 CFR 52.1020(c), “EPA approved regulations.” EPA is proposing to approve Maine’s SIP revision on the basis that Maine has met the RACT requirements for the 2008 8-hour Ozone NAAQS as set forth by sections 182(b) and 184(b)(2) of the CAA. In addition, EPA is proposing to approve “Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision Under the 2008 8-hour Ozone National Ambient Air Quality Standard (NAAQS),” as having satisfied the 2008 8-hour NAAQS RACT requirements, and as an addition to the Maine SIP at 40 CFR 52.1020(e) “Nonregulatory”.

EPA is proposing to withdraw the following previously-approved source-specific RACT requirements for “Prime Tanning Company, York County, Berwick, Maine” (two approvals); “JJ Nissen Baking Company, Cumberland County, Portland Maine”; “Georgia Pacific Corporation, Washington County, Woodland, Maine”; “Moosehead Manufacturing Company, Piscataquis County, Dover-Foxcroft, Maine”; “Moosehead Manufacturing Company, Piscataquis County, Monson, Maine”; “Dexter Shoe Company, Penobscot County, Dexter, Maine” (two approvals); and “McCain Foods USA, Inc., Tatermeal Facility”, and to remove all entries for these facilities which are currently listed in 40 CFR 52.1020(d) “EPA-approved State Source specific requirements.”

EPA is not proposing action with respect to the 2015 Ozone NAAQS or with respect to the 2016 CTG for Oil and Natural Gas Industry. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

V. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference “Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Revision Under the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS),” and 06-096 CMR Chapter 166, “Industrial Cleaning Solvents.” The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 5, 2019.

Deborah A. Szaro,
Acting Regional Administrator,
EPA Region 1.

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